

JUL 21 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

WILLIAM PATRICK APPS

Group Art Unit: 3727

Serial No.: 09/785,100

Examiner: S. Castellano

Filed: February 15, 2001

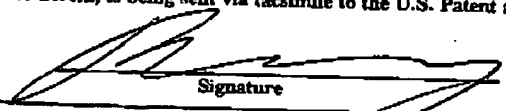
For: **NESTABLE DISPLAY CRATE FOR BOTTLE CARRIERS**

Attorney Docket No.: RPC 0559 PUS

**SUBMISSION OF
SUPPLEMENTAL INFORMATION
RE: APPEAL**Board of Patent Appeals and Interference
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This paper is to submit supplemental information regarding applications referenced in the discussion of Issue E (pages 19-20) of the Appeal Brief. In particular, Appellant attached Office Actions from two commonly assigned applications where similar rejections were made. (Exhibit A ('073 application) and Exhibit B ('226 application) to the Appeal Brief.) The Board has this week reversed the double patenting rejections in these cases, and Appellant believes it appropriate to update the Board with these opinions, which

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER C.F.R. § 1.8		
I hereby certify that this paper, including all enclosures referred to herein, is being sent via facsimile to the U.S. Patent and Trademark Office, at facsimile number: (571) 273-8300 on:		
<u>July 21, 2005</u> Date of Deposit	<u>Robert C. Brandenburg</u> Name of Person Signing	 Signature

U.S.S.N. 09/785,100

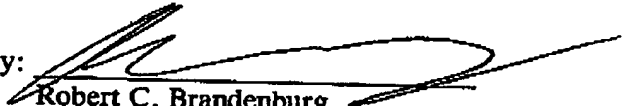
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are attached as Exhibits C and D. Issue E dealt with the rejection of claims 1-51 under the judicially created doctrine of double patenting over drawing figures 1-12 of U.S. Patent No. D400,012 to Apps.¹ The discussion related to double patenting over drawing of a design case is found at pages 5 - 8 of the '073 application decision (Exhibit C) and pages 4 - 8 of the '226 application (Exhibit D).

Respectfully submitted,

WILLIAM PATRICK APPS

By:



Robert C. Brandenburg
Registration No. 29,048
Attorney for Applicant

Date: July 21, 2005

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351

¹ The Examiner purported to withdraw this rejection due to a lack of "motivation"(!?!). While Appellant agrees the rejection should be withdrawn, the Board may uphold the Examiner on any ground set forth in the Final Rejection, making the updating of Appellant's Brief appropriate.